

WATER STORAGE PROJECTS

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions of Title 73, Water and Irrigation, to address proof and certification of water storage projects.

Highlighted Provisions:

This bill:

- ▶ establishes the proof requirements for a surface water storage facility constructed by a public water supplier;
- ▶ establishes a certificate requirement for a surface water storage facility constructed by a public water supplier; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-16, as last amended by Laws of Utah 2008, Chapter 311

73-3-17, as last amended by Laws of Utah 2008, Chapter 311

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-3-16** is amended to read:

73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail when proof of completion of the works and application of the water to a beneficial use [~~will be~~] is due.

(2) On or before the date set for completing the proof in accordance with the application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

(a) a description of the works constructed;

(b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

(c) the method of applying the water to beneficial use; and

(d) (i) detailed measurements of water put to beneficial use;

(ii) the date the measurements were made; and

(iii) the name of the person making the measurements.

(4) (a) (i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, its agencies, political subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall include:

~~[(i)]~~ (A) a statement indicating construction of the project works has been completed;

~~[(ii)]~~ (B) a description of the major features with appropriate maps, profiles, drawings, and reservoir area-capacity curves;

~~[(iii)]~~ (C) a description of the point or points of diversion and redirection;

~~[(iv)]~~ (D) project operation data;

~~[(v)]~~ (E) a map showing the place of use of water and a statement of the purpose and method of use;

~~[(vi)]~~ (F) the project plan for beneficial use of water under the applications and the quantity of water required; and

~~[(vii)]~~ (G) a statement indicating what type of measuring devices have been installed.

~~[(b)]~~ (ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a).

64 (b) Proof on an application for appropriation or permanent change for a surface storage
65 facility in excess of 1,000 acre feet constructed by a public water supplier to provide a water
66 supply for the reasonable requirements of the public shall include:

67 (i) a description of the completed water storage facility;

68 (ii) a description of the major project features and appropriate maps, profiles, drawings
69 and reservoir area capacity curves as required by the state engineer;

70 (iii) the quantity of water stored in acre-feet;

71 (iv) a description of the water distribution facility for the delivery of the water;

72 (v) the project plan for beneficial use of water including any existing contracts for
73 water delivery; and

74 (vi) the completed proof shall conform to rules established by the state engineer.

75 (5) The proof on all applications shall be sworn to by the applicant or the applicant's
76 appointed representative and proof engineer.

77 (6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall
78 submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed
79 professional engineer that show:

80 (i) the location of the completed works;

81 (ii) the nature and extent of the completed works;

82 (iii) the natural stream or source from which and the point where the water is diverted
83 and, in the case of a nonconsumptive use, the point where the water is returned; and

84 (iv) the place of use.

85 (b) The state engineer may waive the filing of maps, profiles, and drawings if in the
86 state engineer's opinion the written proof adequately describes the works and the nature and
87 extent of beneficial use.

88 (7) The completed proof shall conform to rules and standards established by the state
89 engineer.

90 (8) In those areas in which general determination proceedings are pending, or have
91 been concluded, under Title 73, Chapter 4, Determination of Water Rights, the state engineer
92 may petition the district court for permission to:

93 (a) waive the requirements of this section and Section 73-3-17; and

94 (b) permit each owner of an application to file a verified statement to the effect that the

applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to it in accordance with Title 73, Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(9) This section does not apply to an instream flow water right authorized by Section 73-3-30.

Section 2. Section **73-3-17** is amended to read:

73-3-17. Certificate of appropriation -- Evidence.

(1) Upon it being made to appear to the satisfaction of the state engineer that an appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed time change authorized by Section 73-3-30 has been perfected in accordance with the application, and that the water appropriated or affected by the change has been put to a beneficial use, as required by Section 73-3-16 or 73-3-30, the state engineer shall issue a certificate, in duplicate, setting forth:

- (a) the name and post-office address of the person by whom the water is used;
- (b) the quantity of water in acre-feet or the flow in second-feet appropriated;
- (c) the purpose for which the water is used;
- (d) the time during which the water is to be used each year;
- (e) the name of the stream or water source:
- (i) from which the water is diverted; or
- (ii) within which an instream flow is maintained;
- (f) the date of the appropriation or change; and
- (g) other information that defines the extent and conditions of actual application of the water to a beneficial use.

(2) ~~[Certificates]~~ A certificate issued on ~~[applications for]~~ an application for one of the following types of projects need show no more than the facts show in the proof submitted under Section 73-3-16:

(a) projects constructed according to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources~~[-, and for the];~~

(b) federal projects constructed by the United States Bureau of Reclamation, referred to in Section 73-3-16~~[-, need show no more than the facts shown in the proof.]; and~~

126 (c) a surface water storage facility in excess of 1,000 acre feet constructed by a public
127 water supplier.

128 (3) A certificate under this section does not extend the rights described in the
129 application.

130 (4) Failure to file proof of appropriation or proof of change of the water on or before
131 the date set therefor shall cause the application to lapse.

132 (5) One copy of a certificate issued under this section shall be filed in the office of the
133 state engineer and the other shall be delivered to the appropriator or to the person making the
134 change who shall, within 30 days, cause the same to be recorded in the office of the county
135 recorder of the county in which the water is diverted from the natural stream or source.

136 (6) The certificate issued and filed under this section is prima facie evidence of the
137 owner's right to the use of the water in the quantity, for the purpose, at the place, and during the
138 time specified therein, subject to prior rights.